REMARKS

Claims 1-68

Applicants have cancelled claims 1-68.

Claims 69-114

Claims 69-86, 89-90, 92-109, 112-113 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,112,186 to Bergh et al. (hereinafter "Bergh") in view of U.S. Patent No. 5,885,691 to Furuya et al. (hereinafter "Furuya"). Claims 87-88 and 110-111 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bergh in view of Furuya and Aras. Claims 91 and 114 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bergh in view of Furuya in further view of U.S. Patent No. 5,351,075 to Herz et al. (hereinafter "Herz"). These rejections are respectfully traversed.

Independent claims 69 and 92 are directed towards "collecting real-time ratings information." Applicants have amended claims 69 and 92 to state that the collecting of the real time ratings information is "based on the activities of at least one user at user television equipment at a plurality of

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locations." The ratings information is displayed on "the at least one user's television equipment in real time."

Applicants' approach relates to monitoring various activities of "at least one user" at user television equipment "at a plurality of locations" and collecting information in real time. For example, one or more users of a particular piece of user television equipment may be monitored, as well as user television equipment at different locations.

The information collected may then be used to generate real-time ratings. For example, amended claims 76 and 99, which depend from claims 69 and 92, respectively, state that "selecting a geographic area for the real-time ratings ... defines a list of users at a plurality of locations." Thus, when a user selects a geographic area to receive real-time ratings for, ratings are generated from the list of users that are in that selected geographic area. In other embodiments, real-time ratings of how popular (or unpopular) certain television programs are or real-time ratings indicating which non-program-guide applications such as video games are being used most (or least) often may be generated. Page 20, lines 25-30. The real-time ratings information generated may be distributed to user television equipment and displayed on "a

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user's television equipment in real time" (e.g., on a user's television).

Bergh relates to a system for collecting subjective ratings given to items by a user. For example, items can be rated on an alphabetical scale ("A" to "F") or a numeric scale (1 to 10). Col. 4, lines 35-38. The Office Action states that Bergh does not specifically disclose means for displaying real time ratings on the user television equipment in real time, and attempts to use Furuya to make up for this deficiency.

Nothing in Furuya shows or suggests displaying real-time ratings information. Rather, Furuya relates to solving the problem of accidental multiple voting on a voting item where a user is confused as to whether the vote for the selected voting item has been registered by the system. A mark is assigned to the selected voting item, and the mark is displayed to the user so that the user knows that voting has been completed. FIG. 9 shows the "Best Ten Programs" that a specific user selected for 1995. The user can select a title of a program, and confirm the voting for that program. However, nothing shows or suggests that the program titles displayed in FIG. 9 (the "Best Ten Programs" for 1995) are "real time ratings information" which are displayed on user

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television equipment "in real time." They are generated based on data collected over at least a one year period (e.g., 1995) and displayed at a later point in time. Accordingly, a *prima facie* case of obviousness has not been made, and the 35 U.S.C. § 103 rejection should be withdrawn. See M.P.E.P. § 2143.

With respect to claims 71-75, 84-85, 94-98, 107-108 the Office Action takes Official Notice that:

> it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate means for providing an opportunity for defining a time frame for a particular hour, evening, day, week, instant for the real time ratings in order to provide rating of programs in a particular period of time, which would be of most interest to consumers.

Office Action, pages 14, 16, and 17. In addition, with respect to claims 76 and 99, the Office Action takes Official Notice that "it would have been obvious to one of ordinary skill in the art to incorporate the means for providing an opportunity for selecting a geographic area for the real time ratings" in order to provide a user with a "rating of a particular geographic area, which would be the most relevant to the consumers in a particular area." Office Action, pages 14-15. Applicants respectfully submit that this was improper.

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The Office Action may only take Official Notice of *facts* that are "capable of instant and unquestionable demonstration as being 'well known' in the art." M.P.E.P. § 2144.03. Applicants submit that the Office Action, by stating that "it would have been obvious to one of ordinary skill in the art ... to incorporate means for providing an opportunity for defining a time frame" does not take notice of a fact, but instead makes a conclusion of obviousness without support. Similarly, the statement that "it would have been obvious to one of ordinary skill in the art to incorporate the means for providing an opportunity for selecting a geographic area for the real time ratings" does not take notice of a fact. Thus, the Office Action makes conclusions of obviousness without facts to support these conclusions. Therefore, applicants respectfully request that the Office Action cite references in support of its positions. See M.P.E.P. § 2144.03.

With respect to claims 78-81 and 102-104, Official Notice is taken that "selecting real time ratings" for "television program, applications, non-program guide applications, [and] video games are well known in the art."

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Office Action, page 15. Applicants respectfully submit that this was improper.

The Office Action may only take Official Notice of facts that are "capable of instant and unquestionable demonstration as being 'well known' in the art." M.P.E.P. § 2144.03. Applicants respectfully submit that the absence from the prior art already of record of collecting ratings information in real-time but not allowing the user to select it for display on the user television equipment belies the Office Action's assertion of Official Notice. If users cannot select it for display, then there is no objective basis to conclude that the particular approach of selecting the type of real time ratings is capable of instant and unquestionable demonstration of being well known in the art (e.g., whether the information is for "television programs," "applications, "non-program-guide applications," or "video games"). Therefore, applicants respectfully request that the Office Action cite a reference in support of its position. See M.P.E.P. § 2144.03.

In addition, with respect to claims 82 and 83, as well as claims 105 and 106, Official Notice is taken that "displaying real time television program ratings [and] real

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time video game ratings are well known in the art." Office Action, page 15. Applicants respectfully submit that this was improper, and that the absence from the prior art already of record of collecting ratings information in real-time but not allowing the user to select it for display on the user television equipment belies the Office Action's assertion of Official Notice. Therefore, applicants respectfully request that the Office Action cite a reference in support of its position. See M.P.E.P. § 2144.03.

Claims 69 and 92 are therefore patentable. Claims 70-91, which depend from claim 69, and claims 93-114, which depend from claim 92, are therefore patentable.[1]

[1] Claims 70-91, which depend from claim 69, and claims 93-114, which depend from claim 92, include additional features that make these claims patentable. Applicants reserve the right to argue the patentability of these claims separately. Furthermore, applicants respectfully submit that the Office Action does not provide a sufficient motivation for making its obviousness rejections, and reserve the right to argue the insufficiency of these rejections on this basis should prosecution continue.

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Claims 115-116

Claims 115-116 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Guyot. These rejections are respectfully traversed.

Claims 115 and 116 are directed towards "displaying program guide display screens on user television equipment with an interactive television program guide" and "collecting information on which program guide display screens are displayed." Applicants have amended claims 115 and 116 to state that collecting information on which program guide display screens are displayed is "based on the selections received from the user" and that information is collected on the "frequency with which program guide display screens are displayed." One of the advantages of this approach is that information on which program guide screens are accessed by users most frequently may be collected and monitored.

Alexander broadly describes interactive television program guides, as well as recording a viewer's actions and the circumstances surrounding those actions (col. 28, lines 30-67). Applicants improve upon Alexander by "collecting information on which program guide display screens are displayed ... based on

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the selections received from the user" and "collecting information on the frequency with which program guide screens are displayed."

The Office Action states that the feature of collecting information on which screens are displayed is taught by Guyot. The Office Action reasons that because Guyot tracks the number of times an advertisement is displayed, "it is necessary to include means for collecting information on display screens [that] are displayed." Office Action, page 20. Applicants respectfully submit that this is incorrect. It does not follow that counting the number of advertisements that have been displayed makes it necessary to collect information on which program guide screen is displayed based on selections from a user in an interactive television program guide. For example, certain screens may be accessed more often than others, and thus may be more appropriate for particular advertisements. Merely counting the number of advertisements displayed will not provide the same information as collecting information on which program guide screens are displayed based on user selections in the program guide, nor will it provide information related to the frequency with which program guide screens are displayed.

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Accordingly, a *prima facie* case of obviousness has not been made, and the 35 U.S.C. § 103 rejection should be withdrawn. See M.P.E.P. § 2143. Applicants submit that claims 115 and 116 are therefore patentable.

Claims 117-118

Claims 117-118 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Guyot. These rejections are respectfully traversed.

Claims 117 and 118 have been amended in order to provide the features of "providing an opportunity for a user to select non-program-guide applications for use on the user television equipment" and "receiving at least one user selection for a non-program-guide application" and "collecting information ... on which non-program guide applications are selected for use by the user." For example, a non-program guide application that may be selected may be a video game application. In addition, claims 117 and 118 have been amended to state that information is collected "on how the non-program guide applications are invoked."

As discussed above, Alexander broadly describes interactive television program guides, as well as recording a

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viewer's actions and the circumstances surrounding those actions (col. 28, lines 30-67). Applicants improve upon Alexander by "collecting information" on "which non-program guide applications are selected for use by the user" and "how the non-program guide applications are invoked."

The Office Action adds Guyot and reasons that it would be obvious to collect information on applications used. The client application software of Guyot which is used to present advertisements on a user's computer includes software identifier information. When a connection is established between the user computer and a server, the latest version of the application software can be downloaded. Col. 4, line 24 to col. 5, line 27. Applicants submit that Guyot does not show or suggest "collecting information ... on which non-program guide applications are ***selected for use by the user***." Moreover, Guyot does not show or suggest "collecting information ... on how the non-program guide applications are invoked." In Guyot, the user does not make a selection to download an updated version of the application software. It is done automatically.

Accordingly, a *prima facie* case of obviousness has not been made, and the 35 U.S.C. § 103 rejection should be

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withdrawn. See M.P.E.P. § 2143. Applicants submit that claims 117 and 118 are therefore patentable.

Claims 119-126

Applicants' new claims 119 and 120 are directed towards "collecting information on which program guide screens are displayed" and "collecting information on the duration that the program guide screens are displayed." Support for these claims may be found, for example, at page 17, lines 12-28 and FIG. 6. New claims 121 and 122 are directed towards "collecting information" on "which program guide screens are displayed" and "whether the user interacts with the program guide." Support for these claims may be found, for example, at page 17, line 29 to page 18, line 20 and FIG. 7.

New claims 123 and 124 are directed towards "collecting information on whether the mute function is used." Support for these claims may be found, for example, at page 17, line 29 to page 18, line 20 and FIG. 7. Applicants' new claims 125 and 126 are directed towards "collecting information" on "which program guide screens are displayed" and "collecting information on whether screen overlays are present" in the interactive television program guide. Support for these claims

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may be found, for example, at page 17, line 29 to page 18, line 20 and FIG. 7.

Conclusion

The foregoing demonstrates that claims 69-126 are allowable. This application is therefore in condition for allowance. Reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,

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